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Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

ORIGINAL

In re Applications of)

MM Docket No. 92-253

BAKCOR BROADCASTING, INC., DEBTOR)
c/o DENNIS ELAM, TRUSTEE)

File No. BRH-900330VV

For Renewal of License of)
Station KKIK(FM))
Lubbock, Texas)

SOUTHWEST EDUCATIONAL MEDIA)
FOUNDATION OF TEXAS, INC.)

File No. BPED-900629MK

For Construction Permit for a New)
FM Station on Channel 229C1)
Lubbock, Texas)

To: Honorable Walter C. Miller
Administrative Law Judge

MOTION TO ENLARGE THE ISSUES

BAKCOR BROADCASTING, INC., DEBTOR
C/O DENNIS ELAM, TRUSTEE

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November 30, 1992

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SUMMARY

Bakcor Broadcasting, Inc., Debtor c/o Dennis Elam, Trustee ("Bakcor"), the licensee of Station KKIK(FM), Lubbock, Texas, hereby moves to enlarge the issues against Southwest Educational Media Foundation of Texas, Inc. ("SEMFOT"), applicant for a new facility on the KKIK(FM) frequency.

Substantial and material questions exist as to whether SEMFOT, is qualified to be a Commission licensee. These include allegations against T. Kent Atkins and his wife, Mary Helen Atkins, who are principals of SEMFOT, that two of their existing stations have engaged in flagrant premature and/or unauthorized construction. Allegations made by a competitor concerning stations licensed to Caprock Educational Broadcasting Foundation, controlled by Mr. and Mrs. Atkins, have led to a comprehensive ongoing Commission investigation. The investigation, in turn, has triggered holds on renewal, modification and assignment applications and an attempt by the Atkins to withdraw from Caprock.

A further ground for enlarging the issues is SEMFOT's violations of Sections 1.65 and 73.3514 of the Rules. SEMFOT failed to report timely the controversy surrounding the Caprock stations, as well as numerous pending and dismissed applications filed by the Atkins and their companies. Motives for concealment, include, inter alia, the sheer number of

applications, raising a financial issue, and the fact that such an issue was sought against SEMFOT but never resolved in a Waco, Texas, comparative proceeding not disclosed in the instant application.

SEMFOT's financial qualifications are also called into question by the huge number of proposals to construct and operate broadcast facilities that the Atkins' companies have filed.

Finally, SEMFOT has not demonstrated its eligibility to be treated as a non-commercial applicant exempt from application fees and the multiple ownership rules in effect at the time the application was filed. Its vague, conclusory "showing" falls short of the detailed educational proposal required by Commission Rules, policy guidelines, and case law.

The issues in this proceeding should be enlarged to permit review of SEMFOT's and the Atkins' record as a permittee and licensee and resolve the substantial and material questions as to whether SEMFOT is qualified to be awarded a construction permit.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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FM Station on Channel 229C1)	
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)	
To: Honorable Walter C. Miller		
Administrative Law Judge		

MOTION TO ENLARGE THE ISSUES

Bakcor Broadcasting, Inc., Debtor c/o Dennis Elam, Trustee, (hereinafter "Bakcor"), the licensee of Station KKIK(FM), Lubbock, Texas, by its counsel and pursuant to Section 1.229(b)(2) of the Commission's Rules, hereby respectfully moves to enlarge the issues in this proceeding

against Southwest Educational Media Foundation of Texas, Inc. (hereinafter "SEMFOT").^{1/}

The qualifications of SEMFOT and two of its principals, T. Kent Atkins and Mary Helen Atkins, to be a Commission licensee are in serious doubt. There are numerous material questions relating to SEMFOT's and the Atkins' character and financial qualifications, as well as their compliance with Commission Rules both in the instant application and at existing Atkins' controlled broadcast stations. Appropriate hearing issues should be specified to explore the past record and behavior of SEMFOT and the Atkins. In support hereof, Bakcor states as follows:^{2/}

^{1/} This motion is timely filed pursuant to Section 1.229(b)(2) of the Commission's Rules, which states that motions to enlarge are due within 30 days of the date of publication of the Hearing Designation Order in the Federal Register. The HDO was published on October 30, 1992.

^{2/} Bakcor raised the issues contained in this motion in a Petition to Dismiss or Deny filed May 1, 1991, against an application filed by SEMFOT for a new FM station in Midland, Texas. That application was filed as a challenge to Bakcor's application to renew the license of Station KNFM(FM). In the HDO, the Mass Media Bureau dismissed the petition on procedural grounds and invited Bakcor to raise the issues in a motion to enlarge.

**I. SEMFOT IS NOT QUALIFIED TO BE A COMMISSION
LICENSEE DUE TO UNAUTHORIZED AND PREMATURE CONSTRUCTION
AND OPERATION AT EXISTING STATIONS CONTROLLED BY THE ATKINS**

1. Atkins is one of three directors and President of SEMFOT, a non-stock, non-profit corporation.^{3/} His wife, Mary Helen Atkins, is also a director and Secretary-Treasurer of the company. (See Section II, Question 8 to SEMFOT's application.) Exhibit A-1 to the application reports that they are also trustees of a non-stock, non-profit educational trust known as Caprock Educational Broadcasting Foundation ("Caprock"). Caprock is the permittee of Station KAMY-FM in Lubbock, Texas, and the licensee of Station KLMN(FM), Amarillo, Texas.

2. SEMFOT neglected to report until after Bakcor raised the matter in its Petition to Dismiss or Deny, however, that Caprock is the subject of a pending investigation by the Commission's Complaints and Compliance Branch. The inquiry was triggered by, inter alia, an April 1989 complaint and petition to deny KAMY-FM's 1988 modification application (BMPED-880328MM), filed by Williams Broadcast Group, a Caprock

^{3/} By Petition for Leave to Amend filed November 11, 1992, SEMFOT seeks to substitute a new non-stock, non-profit entity, Lubbock Educational Broadcasting, Inc., as the applicant and to replace T. Kent Atkins with a new principal, Don A. Workman. Both the Bureau and Bakcor filed an opposition to that amendment on November 20. It is Bakcor's position that the amendment should not be accepted or, if accepted, then only for the purpose of complying with Section 1.65 of the Commission's Rules. Thus, it is Bakcor's contention that it is proper to investigate the qualifications of SEMFOT and its principals in this proceeding despite the filing of the amendment.

competitor. (Copies are attached hereto for reference as Exhibit 1.) Williams alleges that Caprock undertook extensive construction at the site proposed in its major change application without prior authorization from the Commission; commenced operations from the site with unauthorized power and absent program test authority or other authorization from the Commission; failed to notify the Commission of significant changes in information previously furnished; and failed to notify the public of the filing of its major modification application. Williams' serious charges were substantiated by detailed affidavits and photographic evidence.

3. In its opposition to the petition to deny, filed May 9, 1989 (copy attached as Exhibit 2 hereto), Caprock did not dispute that it commenced operations at an unauthorized site prior to receiving Commission consent. Atkins claimed in a declaration that Caprock did so under the "mistaken belief" that it would lose its construction permit if it did not commence broadcasting prior to the expiration date of its existing permit. Atkins also averred that he mistakenly believed (because he did not consult with Mr. Oyster, Caprock's communications counsel) that Caprock's application was for a minor change and that construction in accordance with the minor

modification was permissible. Caprock acknowledged "a serious violation" of the Commission's Rules. (Exhibit 2, at 3.)^{4/}

4. However, in spite of its professed contrition, Caprock appears to have repeated its misconduct in connection with Station KLMN(FM), Amarillo, Texas. As documented in Williams' May 31, 1989, reply to opposition to petition to deny (copy attached as Exhibit 3 hereto), KLMN's facilities were illegally co-located on a tower utilized by Station KRGN(FM), Amarillo, licensed to Atkins Broadcasting Co., of which T. Kent Atkins is the sole principal. KLMN's authorized site was located approximately eight to ten miles from the site at which construction was accomplished. Again, the allegations of misconduct against Atkins were documented by a former managerial employee and supported by photographic evidence.

5. The saga does not end there. In October 1989, confronted with the Commission staff's failure to take action on his Lubbock and Amarillo applications due to Williams' pending allegations, Atkins and his wife sought to resign from the Board of Directors of Caprock. (See BTCED-891003GG and BTCED-891003GF.) Williams opposed the transfers of control because of the yet unresolved allegations of misconduct involving Mr. and

^{4/} Commission records show that the modification application was dismissed at the request of Caprock. However, the station is operating pursuant to a later-filed modification application, and a license application has been filed. That application, filed almost two years ago, remains pending.

Mrs. Atkins. Again, Caprock did not deny the charges, but claimed ignorance of proper procedure. (See "Consolidated Opposition to Petition to Deny and Informal Objection," filed November 28, 1989. A copy is attached as Exhibit 4 hereto.) The resignations reflected counsel's advice that Atkins

"may have fiduciary duty to his supporters to tender his resignation due to the above circumstances. While Mr. Atkins states that he did not willfully violate the rules, the fact is that he did make mistakes which place in jeopardy the funds of the Caprock contributors." (At ¶3.)

6. The Commission has to date not acted on the applications to transfer control. Indeed, the Commission has not acted on numerous pending applications related to existing facilities, including Caprock's renewal for KLMN(FM) in Amarillo, filed over two years ago. Nor has it taken action on a proposed assignment of Station KBTT(FM), Bridgeport, Texas, to SEMFOT, filed November 30, 1989 (BAPED-891130HR), and opposed by Williams. Meanwhile, according to Williams, the investigation of Atkins' stations continues apace and Atkins' various rule violations and candor "are the subject of a sixty-five page Report" compiled by the Commission's staff. (See copy of Williams' petition for reconsideration, filed September 24, 1990, in connection with two applications filed by Caprock for

KAMY, BMPED-890726IF and BMPED-880328MM, attached hereto as Exhibit 5.)^{5/}

7. The seriousness of Atkins' undisputed violations of the Commission's prohibition on construction without, or at odds with, prior Commission approval cannot be overstated. "It is essential that licensees and permittees construct facilities in strict compliance with the specifications set forth in their construction permits in order to avert serious air navigation hazards and avoid interference to other broadcast stations." Metro Program Network, Inc., 5 FCC Rcd 2940 (1990); see also Equivox, Inc., 87 FCC 2d 1099 (1981). Indeed, "[t]o excuse [such] conduct . . . would render ineffectual the Commission's licensing processes as it would, in effect, allow licensees to obtain an authorization to construct at one location and then build and operate at whatever locations was convenient, without Commission approval." Metro Program Network, supra. And, because the violations are "extremely serious", the Atkins' culpability would be in question even in the absence of bad faith. Equivox, Inc., supra, at 1101, n. 3. In any event, given the pattern of misconduct here, as well as the Atkins'

^{5/} Williams' claim of an investigation is substantiated by the Bureau's statement in the HDO that "this proceeding will be made subject to whatever action, if any, the Commission deems appropriate as a result of any proceeding which may occur in respect to the license renewal applications for Stations KENT-FM, Odessa, Texas, KRGN(FM) and KLMN(FM), Amarillo, Texas, as well as applications for KENT, Odessa, KAMY(FM), Lubbock, Texas, KBTT(FM), Bridgeport, Texas and KOJO(FM), Lake Charles, Louisiana."

years of experience as broadcast operators and Mr. Atkins' experience as an engineer, any claim of mitigation due to ignorance or oversight would seem incredible. If the Atkins in fact "knowingly intended to violate the terms and conditions of [their] permit as well as the Commission's technical rules," a denial of SEMFOT's application for a new authorization would be in order. See Triad Broadcasting Company, Inc., 96 FCC 2d 1235 (1984).^{6/}

**II. SEMFOT AND THE ATKINS HAVE VIOLATED
SECTIONS 1.65 AND 73.3514
OF THE COMMISSION'S RULES WITH MOTIVE TO DISSEMBLE**

8. As noted in Section I, supra, SEMFOT failed to give any inkling in the instant Lubbock application of the Atkins' problems in connection with the Amarillo and Lubbock stations at the time it filed the application. While Form 340 may not expressly require reporting of Commission investigations so significant as to warrant "holds" on modification, assignment and renewal applications, these matters are plainly of decisional significance and should have been fully disclosed. SEMFOT's withholding of this information, when coupled with an obvious motive to conceal allegations of serious misconduct, warrants independent inquiry.

^{6/} See also the authorities regarding premature construction cited by Williams at page 9 of Exhibit 1.

9. Likewise, Sections 1.65 and 73.3514 of the Rules and Section II in Form 340 required reporting of all Atkins pending applications and applications dismissed with prejudice by the Commission at the time SEMFOT filed its application. Modesto Broadcast Group, 5 FCC Rcd 4674 (Rev. Bd. 1990); Sharon S. Smith, 2 FCC Rcd 6701 (Chief, Video Services Division 1987); Brian E. Lamont, 5 FCC Rcd 7703 (Chief, Audio Services Division 1990); Frank Digesu, Sr., 5 FCC Rcd 2534 (Chief, Audio Services Division 1990). SEMFOT has failed to meet this standard or even come close.

10. SEMFOT's list of other media interests in Exhibit A-1 omitted numerous applications. They include SEMFOT applications for new facilities in San Angelo (BPED-900629MI), Brownfield (BPED-900629MJ), Slaton (BPED-900629ML), Midland, Texas (BPED-900629MM), and Lawton, Oklahoma (BPED-870827MH).^{7/}

11. Exhibit A-1 also omitted SEMFOT's application to acquire KBTT(FM), Bridgeport, Texas. Further, Exhibit A-1 failed to reference numerous applications by SEMFOT or its principals that were dismissed with prejudice prior to the filing of the application for the Lubbock facility. These include applications by SEMFOT for new facilities in Waco, Texas

^{7/} It should be noted that each of these, with the exception of the Lawton application, was filed on the same day as the instant application. Therefore, the Atkins can hardly claim they were unaware of, or had forgotten about, them.

(BPED-870610MF, dismissed April 12, 1990), Post, Texas (BPED-870827MG, dismissed May 22, 1989), and Albuquerque, New Mexico (BPED-870515MA, dismissed March 8, 1990). The omitted applications also include the following filed by an affiliated non-stock, non-profit corporation known as Southwest Educational Media Foundation, Inc. ("SEMF") for non-commercial reserved channels in: Tarpon Springs, Florida (BPED-840629IN, dismissed December 10, 1985); Augusta, Georgia (BEPD-840620IB, dismissed December 10, 1985); Birmingham, Alabama (BPED-840611IC, dismissed August 2, 1985); Greenville, South Carolina (BPED-8406181IB, dismissed December 10, 1985); San Angelo, Texas (BPED-840611IX, dismissed December 20, 1985 and BPED-840215AC, dismissed December 10, 1985); Jacksonville, Texas (BPED-831215AB, dismissed March 19, 1986); Midland, Texas (BPED-831215AC, dismissed October 6, 1986); Phoenix, Arizona (BPED-840628IE, dismissed December 10, 1985) and Amarillo, Texas (BPED-841018IA, dismissed October 14, 1986).

12. Finally, the list of unreported Atkins interests or applications encompasses numerous LPTV applications in the name of Mary Helen Atkins or Spectrum Media, wholly owned by her.^{8/} Bakcor learned of these interests while reviewing a December 1989 motion to enlarge against SEMFOT filed in a

^{8/} Form 340 does not distinguish between full power and LPTV applications in requiring reporting. In apparent recognition thereof, SEMFOT included in Exhibit A-1 Mary Helen Atkins' LPTV station K56DF in Amarillo.

comparative proceeding for a new FM channel in Waco, Texas. (See Exhibit 6 attached hereto, a copy of the motion to enlarge in MM Docket No. 89-338.) Prior to action on the motion to enlarge, SEMFOT dismissed its application with prejudice. Despite the fact that Atkins was on notice by events in the Waco proceeding that these LPTV interests should have been reported, SEMFOT chose not to submit a comprehensive list in its application as originally filed. In its Petition to Dismiss or Deny filed May 1, 1991, Bakcor included a list of 38 pending and 17 dismissed low power television applications, the status of which was known at the time SEMFOT filed the instant application. (See Exhibit 7 attached hereto, a copy of a list of applications compiled from the Commission's records, prior to May 1, 1991.) These were not reported until **after** Bakcor filed its petition. (See Amendment to SEMFOT's application filed July 5, 1991.)

13. The disclosure of all media interests is critical for various Commission regulatory purposes. The Commission's staff does not always have the resources to monitor closely such information, particularly where, as here, the interests are in different names and services. SEMFOT's motives for nondisclosure need to be explored closely, especially with regard to the unreported Waco proceeding, wherein a strong showing was made that SEMFOT's financial qualifications should be the subject of an issue. (The motion was not acted on by the

Presiding Judge because the application was dismissed.) More generally, in this connection, SEMFOT's omissions served a clear purpose, i.e., to conceal the sheer number of pending Atkins' proposals which require financing, in the hope of cutting off inquiry into prima facie financial questions. (See Section III infra.) These reporting violations, in addition to other Atkins' derelictions demonstrated herein, warrant that appropriate reporting issues be specified.

III. SEMFOT'S FINANCIAL QUALIFICATIONS ARE INHERENTLY SUSPECT

14. Commission policy requires that when an applicant has filed multiple applications before the Commission, "it must be able to demonstrate that it is financially qualified as to all pending applications." Texas Communications Limited Partnership, 5 FCC Rcd 5876, 5878 (Rev. Bd. 1990) (emphasis in original), recon. denied, 5 FCC Rcd 1260 (Rev. Bd. 1991). See also Willie A. Jefferson, 6 FCC Rcd 1499 (Rev. Bd. 1991); Breeze Broadcasting Company, Ltd., 5 FCC Rcd 6365 (Rev. Bd. 1990); George Edward Gunter, 104 FCC 2d 1363 (Rev. Bd. 1986). SEMFOT submitted an unqualified certification of its financial qualifications in Section III of its application. In light of the numerous pending applications by Atkins and related parties, disclosed and undisclosed,^{9/} the accuracy of the certification is

^{9/} In addition to the full power and LPTV applications, T. Kent Atkins, doing business as Channel 54 Broadcasting,
(continued...)

inherently suspect. Under these circumstances SEMFOT must now demonstrate that it was at the time of filing and is currently financially qualified. If it "cannot demonstrate its qualifications to build contemporaneously the facilities proposed in parallel FCC applications", its instant application must be denied. See Breeze Broadcasting, supra, at 6366.

15. The Commission's staff is authorized to launch a financial inquiry into SEMFOT's/Atkins' multiple pending applications at any time. See Certification of Financial Qualifications, 2 FCC Rcd 2122 (1987); News Release of June 26, 1987 re Carl M. Fisher (copy attached for reference as Exhibit 9 hereto). The staff has not done so and, therefore, a financial issue should be specified now. SEMFOT should also be required to make the same showing regarding sources and amounts of funds relied upon as is required of a commercial applicant filing on Form 301 because the channel applied for here is commercial. Compare Gary Sellers, 5 FCC Rcd 7082 (Chief, Audio Services Division 1990) (designating site availability issues

^{2/}(...continued)

Inc., also held an unbuilt construction permit for a full power television station in Longview, Texas, KTHP-TV, at the time SEMFOT filed its application. That permit has since been cancelled for failure to construct. (See Letter from Barbara Kreisman, dated December 17, 1991, attached as Exhibit 8.) Of course, SEMFOT's proposal to purchase KBTT, currently pending before the Commission, would also require substantial funds because it is an unbuilt permit.

against noncommercial applicant for non-reserved channel despite lack of certification requirement in Form 340).

**IV. SEMFOT HAS NOT MET ITS BURDEN TO SHOW
THAT IT IS ENTITLED TO ELIGIBILITY AS A
NON-COMMERCIAL EDUCATIONAL APPLICANT**

16. As noted above, SEMFOT filed its application on FCC Form 340 as a purportedly non-commercial applicant. This approach had several critical advantages, chief among which were the exemptions from application fees and from the Commission's multiple ownership rules. The former is significant because SEMFOT would have had to pay over \$7,000 in filing and hearing fees absent the exemption. The latter is significant given SEMFOT's and Atkins' numerous and in some cases overlapping media interests.^{10/}

17. In order to qualify for such favored treatment, SEMFOT's qualifications as a bona fide educational applicant must be scrutinized carefully. In the event SEMFOT does not meet its burden to show compliance with the long-established Commission tests for such status, an educational qualifications issue must be specified. Viera & Lloyd, 5 FCC Rcd 5813 (Chief,

^{10/} An entity in which Atkins is a principal, Caprock Educational Broadcasting Foundation, is the permittee of KAMY-FM, Lubbock, Texas. If SEMFOT is awarded the channel it seeks in this proceeding, then Atkins would have two FM stations licensed to the same community, both of which would purportedly operate as non-commercial stations.

Audio Services Division 1990); Earlimart Education Foundation, Inc., 6 FCC Rcd 528 (Chief, Audio Services Division 1991).^{11/}

18. Section 73.503 of the Commission's rules restricts the grant of a non-commercial license to "a nonprofit educational organization [that provides a] showing that the station will be used for the advancement of an educational program." Paragraph (a)(2) of the rule adds that:

"In determining the eligibility of privately controlled educational organizations, the accreditation of state departments of education and/or recognized regional and national accrediting organizations shall be taken into consideration."

19. Here, SEMFOT claims only to be an educational "organization." (See Exhibits L1 and P1 to SEMFOT's application.) It does not claim to be accredited nor apparently has it been accorded any special "educational" status by any state governmental agency or recognized regional or national accrediting organizational. It is not, in other words, an "educational" institution. Accordingly, pursuant to Appendix A of the Notice of Inquiry in Docket 78-164, 43 Fed. Reg. 30842

^{11/} Had SEMFOT applied on a reserved channel, its application would certainly be dismissed for this deficiency without hearing. Viera & Lloyd, supra. There is no logical reason not to hold SEMFOT to the requirements of a noncommercial applicant merely because SEMFOT chose to apply on a commercial channel--especially because SEMFOT has not met the qualifications requirements, including filing fees, of a commercial applicant.

(1978) (the "Standards"), SEMFOT must demonstrate that it has an educational goal and is committed to the advancement of an educational program. It has the burden to do so with a detailed showing. Way Of The Cross of Utah, Inc., 58 RR 2d 455 (1985); Wisconsin Broadcast Communications Foundation, Inc., 5 FCC Rcd 5739 (Chief, Audio Services Division 1990); Martinsville Community Workshop, Inc., 6 FCC Rcd 361 (Chief, Audio Services Division 1991); Bluefield Educational Broadcasting Foundation, 4 FCC Rcd 4485 (1989).

20. SEMFOT's showing fails to meet these tests. It provides no specifics as to which schools and institutions it will "cooperate" or "associate with", what the nature of the "unique educational broadcast service" it will offer will be, and precisely what portion of its programming and during what time periods it will provide educational and instructional programming, as opposed to news, public affairs, "updated weather summaries", religious and entertainment programming. (See Exhibits L1 and P1.) Also, SEMFOT relies on programming promises specifically found not to meet the Section 503 burden in previous cases, e.g., vocational training in broadcasting. See Way Of The Cross, supra, 58 RR 2d at 460, n. 10; Viera & Lloyd, supra. Like the unsuccessful applicants in Way Of The Cross and the other cases cited above, SEMFOT's vague, "cookie-cutter" narrative "tells us nothing", Way Of The Cross, supra, at 460, and does not permit a determination whether, in fact,

the proposed station will actually be operated as an educational outlet.

21. In sum, SEMFOT has exploited a loophole in the Commission's Rules to avoid the imposition of fees and the burden of multiple ownership restrictions that existed at the time SEMFOT filed its application. Its entitlement to such favored treatment ought not to be awarded without searching scrutiny of its compliance with the Commission's rigorous eligibility standards. An appropriate issue should be designated.^{12/}

V. CONCLUSION

The following issues should be specified against SEMFOT:

- (1) To determine whether T. Kent Atkins, Mary Helen Atkins and their companies have engaged in a pattern of premature, unauthorized construction and operation at Stations KAMY-FM and KLMN(FM);
- (2) To determine whether SEMFOT has violated Sections 1.65 and 73.3514 of the Commission's Rules in failing to report material and decisionally significant information in the instant application;
- (3) To determine whether T. Kent Atkins, Mary Helen Atkins, SEMFOT, and related companies are financially qualified to construct and operate all proposed stations for which applications were pending when Mr. Atkins so certified in the

^{12/} In the event that the educational issue is resolved against SEMFOT, its application must be returned for failure to pay the requisite filing fee.

instant application on June 1, 1990, and at present;

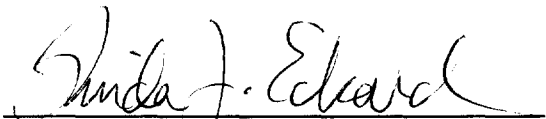
- (4) To determine whether SEMFOT misrepresented the facts or lacked candor with the Commission in certifying to its financial qualifications and, if so, the effect thereof on its qualifications to be a licensee;
- (5) To determine whether SEMFOT is a bona fide educational organization eligible for treatment as a non-commercial applicant; and
- (6) To determine, in light of the facts adduced pursuant to the foregoing issues, whether SEMFOT is qualified to be a Commission licensee.

Should the requested issues be added, Bakcor would seek to depose T. Kent Atkins, Mary Helen Atkins, and perhaps other individuals with knowledge of the facts, and would request that the documents described in Exhibit 10 to this motion be produced.

Respectfully submitted,

BAKCOR BROADCASTING, . INC., DEBTOR
C/O DENNIS ELAM, TRUSTEE

By:


Lawrence Roberts
Linda J. Eckard

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November 30, 1992

EXHIBIT 1

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April 13, 1989

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APR 13 1989

Federal Communications Commission
Office of the Secretary

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Complaints and Investigations Branch
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2025 M Street N.W.
Washington, D.C. 20554

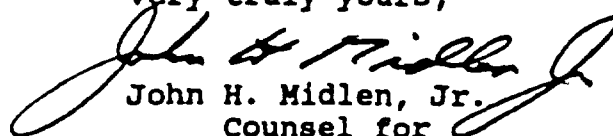
Re: COMPLAINT
Station KAMY(FM), Lubbock, Texas
Caprock Educational Broadcasting Foundation
File No. BMPED-880328MM

Dear Ms. Wise:

Williams Broadcast Group, licensee of Station KJAK(FM), Slaton, Texas, requests that you investigate, and close down, the current operation of Station KAMY(FM), Lubbock, Texas, which station is operated by Caprock Educational Broadcasting Foundation on Channel 211A. Caprock has pending an application for a major change, File No. BMPED-880328MM, which appeared on a March 20, 1989 Cut-Off List. On Monday, April 10, 1989 Station KAMY commenced operation from and with the facilities that constitute its major change application. Among other things, the unauthorized operation is from an entirely different location than is currently authorized. Moreover, we believe current operation to be substantially over power.

It is requested that Station KAMY be contacted, that the information contained herein be confirmed, and that the station be ordered, by telegram, to return to operation from its currently authorized facilities. It is Williams Broadcast Group's intention to file a petition to deny Caprock's modification application on or before the cut-off, April 25, 1989.

Very truly yours,



John H. Midlen, Jr.

Counsel for

Williams Broadcast Group

cc: Station KAMY(FM)

DUPLICATE

APR 26 1989

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APR 25 1989

Federal Communications Commission
Office of the Secretary

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

In re Application of)
CAPROCK EDUCATIONAL BROADCASTING) *KAM4* File No. BMPED-880328MM
FOUNDATION)
For Modification of)
Construction Permit)
Lubbock, Texas)
To: The Chief, Mass Media Bureau

PETITION TO DENY

John H. Midlen, Jr.
Gregory H. Guillot

JOHN H. MIDLEN, JR., CHARTERED
P.O. Box 5662
Washington, D.C. 20016-5662

April 25, 1989